

**REMARKS**

Claims 43-56, 62-64 and 66-78 are pending in the application.

Claims 43-56, 62-64 and 66-78 have been rejected.

Claims 43, 62, 67, 69, 70, 75, 76 and 78 have been amended, as set forth herein.

**I. REJECTIONS UNDER 35 U.S.C. § 103**

All claims were rejected under 35 U.S.C. § 103 as being unpatentable over Iwaszkiewicz (US 4,590,950) under various theories. The rejections is respectfully traversed.

Applicant has amended independent Claims 43 62, 67 and 75 resulting in all of the independent Claims (43, 62, 63, 67, 71 and 75) reciting that the first and second conductors are each spaced about the same distance from a longitudinal axis of the body member (or spaced substantially equidistant from the axis of the lead body). Iwaszkiewicz not only fails to disclose first and second conductors, but Iwaszkiewicz further fails to disclose that the first and second conductors are spaced about the same distance from the longitudinal axis.

The Office Action appears to argue that it would have been obvious to include a second electrode and second conductor since it was known in the art to provide a second duplicative electrode (apparently to provide additional therapy to the body and provide spirally wound conductors about the same distance from a longitudinal axis of the body to provide a lumen for insertion of additional elements or provide rigidity/flexibility. See, Office Action, pp. 3-4. Applicant is unsure whether this rejection is actually a rejection based upon a duplication of parts

theory (raised in a previous Office Action) or based upon some unidentified prior art. In either case, the Office Action fails to establish a prima facie case of obviousness.

Since each of the independent Claims 43, 62, 63, 67, 71 and 75 recite first and second conductors that are each spaced about the same distance from a longitudinal axis of the body member (or spaced substantially equidistant from the axis of the lead body), mere “duplication” of Iwaszkiewicz’ single conductor would not result in Applicant’s invention, as claimed. The disclosure of Iwaszkiewicz fails to allow “duplication” of the single conductor shown in Iwaszkiewicz as the conductor is illustrated as coiled, virtually unitary (no spacings between the wire), and extends substantially the length of the lead. Accordingly, there cannot be two such conductors that are “spaced about the same distance from a longitudinal axis of the body member” (or substantially equidistant from the axis). As such, Applicant respectfully submits that “duplication” of Iwaszkiewicz’ single conductor cannot produce the Applicant’s claimed invention (as stated previously, duplication of Iwaszkiewicz is substantially problematic).

The Office Action refers to several other references, including Dahl (US 4,559,951), Winkler (US 5,417,208) and Vaiani, et al. (US 5,374,285), but does not specifically make any 103 rejections based upon these references. Accordingly, no prima facie 103 rejection has been made. Further, there is no suggestion or motivation to modify the reference or to combine reference teachings. It appears that such an argument, if made, would simply be based upon hindsight and selective picking and choosing of specific elements/features within the references to come up with Applicant’s invention. The teaching or suggestion to make the claimed

invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Accordingly, the Applicant respectfully requests that the Claims, as amended, overcome all of the prior rejections.

## II. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at [rmccutcheon@davismunck.com](mailto:rmccutcheon@davismunck.com).

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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